

CHAPTER III – OVERVIEW AND TYPES OF SUBDIVISIONS

Chapter Overview

This chapter identifies the land divisions that require subdivision review in accordance with the Montana Subdivision and Platting Act, [Title 76, Chapter 3, MCA \(“MSPA”\)](#) and discusses the categories of major and minor subdivisions, which are used throughout these subdivision regulations. This chapter also addresses additional criteria for approving specific types of subdivisions including condominiums, townhomes, townhouses, recreational vehicle and mobile home parks and phased developments. See definitions at [76-3-103 MCA](#).

III-A What Constitutes A Subdivision

For purposes of subdivision review under Chapters III through VIII of these regulations, a subdivision is “a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any re-subdivision and condominium or townhouse development, unless exempted under [76-3-203, MCA](#). The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed ([76-3-103\(16\), MCA](#)).

III-B Subdivision Categories: Major and Minor Subdivisions

All subdivisions shall be reviewed as major subdivisions or minor subdivisions, as defined below.

1. Major Subdivision

The following divisions shall be reviewed as major subdivisions as described in Chapter IV:

- a) Any subdivision consisting of six or more lots; and
- b) Subdivisions with five or fewer lots that do not meet the definition of a first minor subdivision or subsequent minor subdivision as defined below.

2. Minor Subdivisions

The following divisions shall be reviewed as minor subdivisions as described in Chapter IV:

- a) First minor subdivisions, as defined in [76-3-609\(2\), MCA](#) as the subdivision of a tract of record that has never been subdivided or created by a subdivision or has not resulted from a tract of record that has had more than five parcels created from that tract of record under [76-3-201](#) or [76-3-207, MCA](#) since July 1, 1973.

- b) Subsequent minor subdivisions that result in not more than five parcels from any combination of subdivision or exemption under [76-3-201](#) or [76-3-207, MCA](#) since July 1, 1973.

III-C Types of Subdivisions

The following sections identify specific types of subdivisions with special provisions or review considerations.

1. Condominiums

- a) Overview. “Condominium” is the ownership of single units with common elements held jointly by unit owners. All land in a condominium subdivision is jointly held with undivided interest. The unit owners own their individual units, not the land beneath the units. The term does not include a townhome or townhouse.

The following establishes the unique provisions for condominiums under these subdivision regulations and with reference to [Title 70, Chapter 23, Unit Ownership Act – Condominiums](#).

- b) Process. All condominiums shall be reviewed as major or minor subdivisions, based on the number of units and the history of divisions on the existing tract of record, except as provided below.
 - i. Condominiums are exempted from subdivision review, pursuant to [76-3-203, MCA](#), and Chapter II of these regulations, when:
 - A. The approval of the original subdivision of land expressly contemplated the construction of the condominiums and any applicable park dedication requirements in [76-3-621, MCA](#) are complied with; or
 - B. The condominium is in conformance with applicable local zoning regulations when local zoning regulations are in effect.
 - ii. No construction of any structure may begin until the subdivision site plan has been approved as a final site plan ([70-23-301\(8\), MCA](#)) and all other applicable agency approvals have been received (e.g., DEQ, building permits, etc.).
- c) Review Criteria. Because a condominium does not divide land, a site plan is required instead of a plat. Condominiums shall be reviewed according to the criteria in Chapter V of these regulations in addition to the following requirements:
 - i. Department of Revenue Approval pursuant to [70-23-304, MCA](#);
 - ii. Compliance with the requirements of [Title 70, Chapter 23 “Unit Ownership Act – Condominiums”](#);
 - iii. Building regulations, if applicable; and
 - iv. Department of Environmental Quality approval per [76-4-102\(22\), MCA](#) or [municipal facilities certification as per 76-4-127, MCA](#).
- d) Limits on Conveyance. Condominium units shall not be transferred, conveyed or leased until every mortgage and other lien affecting any unit, including the undivided interest of the unit in the common elements, is paid and satisfied or the unit being conveyed or leased and its interest in the common elements shall be released therefrom by partial release duly recorded pursuant to [70-23-602, MCA](#).

- e) Creation of Additional Parcels. No creation of a parcel for condominiums may result in a parcel or parcels of less than 160 acres, unless the parcels are reviewed as lots in a subdivision or as a valid exemption under [Title 76, Chapter 2, MCA](#).
- f) Submittal Requirements. The requirements of Chapter VI apply, except that no plat may be necessary but a site plan is required. The following clarifies other submittal requirements unique to condominiums:
 - i. Survey. The perimeter of the existing tract or tracts of record shall meet survey requirements of [Title 76, Chapter 3, Part 4, MCA](#). It is strongly encouraged, but not required, that the site plan components described below are also represented through formal survey.
 - ii. Site Plan.
 - A. Site plans and floor plans as required by [70-23-306, MCA](#) shall show the layout of each unit, including the unit designation, location and dimensions of each unit, and the common areas to which each has access, including internal streets, parking and storage areas.
 - B. The site plan shall be prepared by a registered architect, registered professional engineer, or registered professional land surveyor as required by [70-23-306, MCA](#). The preparer shall certify that the site plan meets requirements of these subdivision regulations and other site/floor plan requirements of the Unit Ownership Act for Condominiums.
 - C. The site plan shall identify the total number of units by type, dwelling units, commercial units or industrial units.
 - iii. Preliminary Plat/Site Plan Application. The preliminary plat/site plan application shall include all items required per Chapter VI and the following:
 - A. A site plan as identified in Ch. III-C(1)(f)(ii) above; and
 - B. A draft unit ownership declaration as required pursuant to [70-23-301, MCA](#).
 - iv. Final Plat/Site Plan Application. The final plat/site plan application shall include all items required per Chapter VI and the following:
 - A. A site plan as identified in Ch. III-C(1)(f)(ii) above;
 - B. A Declaration of Condominium Ownership that covers all applicable tracts of record and all units in the subdivision;
 - C. Department of Revenue approval of the declaration and certification that no other property in the County is using the same or similar name and that all taxes and assessments due and payable have been paid;
 - D. Bylaws of the condominium association meeting requirements of [70-23-307](#) and [308 MCA](#);
 - E. Floor plans to be recorded with the declaration as required by [70-23-306, MCA](#);
 - F. Documentation proving requirements on limits of conveyance have been met;
 - G. Certification from a lawyer licensed in Montana that the condominium complies with the requirements of [Title 70, Chapter 23](#). The certification and supporting materials shall be filed with the final plan;
 - H. All applicable permits and approvals for construction, including construction of buildings and compliance with local and state building code; and
 - I. Evidence that the ownership meets requirements or [70-23-602, MCA](#) regarding ownership, liens, and mortgages.

- g) Design Standards. The design standards for condominiums are the same as for all other subdivisions, as identified in Chapter VII, with the following additions.
 - i. No property shall bear a name using a word which is the same as, similar to, or pronounced the same as a word in the name of any other property or subdivision in the same county, except for the words “building”, “court”, “place”, or similar words;
 - ii. Off-street and guest parking shall be required in proximity to the unit served;
 - iii. Storage areas for the storage or parking of boats, trailers, or other recreational vehicles shall be required, or covenants prohibiting the location of these items within the condominium property shall be established;
 - iv. Parkland dedication shall be calculated according to the following table and applied to condominium developments in those locations that do not have zoning.

2. Townhomes and Townhouses

- a) Overview. “Townhome” or “townhouse” means property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.
- b) Process. All townhomes and townhouses shall be reviewed as major or minor subdivisions based on the number of units and the history of divisions on the existing tract(s) of record, except as provided below.
 - i. Townhomes and townhouses are exempted from subdivision review, pursuant to [76-3-203, MCA](#), and Chapter II of these regulations, when:
 - A. The approval of the original subdivision of land expressly contemplated the construction of the townhomes or townhouses, and any applicable park dedication requirements in [76-3-621, MCA](#) are complied with; or
 - B. The townhome, or townhouse proposed is in conformance with applicable local zoning regulations when local zoning regulations are in effect.
- c) Common Areas
 - i. If there are no common areas or facilities proposed, the review of townhomes and townhouses is the same as for any other subdivision. Common areas not proposed as a condominium must be jointly owned through a legal entity, such as an incorporated property owners’ association.
 - ii. If there are common areas or facilities proposed, the land division is reviewed similar to any other subdivision and the common areas are subject to the same provisions as Ch. III-C(2)(g)(iv) above.

3. Recreational Vehicle (RV) and Mobile Home Parks

- a) Overview. This section of the subdivision regulations establishes the criteria and requirements for recreational vehicle and mobile home parks in addition to and different from other requirements in the subdivision regulations.
 - i. RV Park - A RV park as used in these regulations is land intended for the renting or leasing of two or more recreational camping vehicle spaces.
 - ii. Mobile Home Park - A mobile home park as used in these regulations is land intended for the renting or leasing two or more mobile home spaces.
- b) Process. All RV and mobile home parks shall be reviewed as major or minor subdivisions based on the number of units and the history of divisions on the existing tract of record.

- c) Review Criteria. In addition to the criteria listed in Chapter V, the following are required for RV and mobile home parks:
 - i. DPHHS approval is required prior to final plat application; and
 - ii. DEQ approval is required per [76-4-102\(22\), MCA](#), even when rental spaces are 20 acres or greater.
- d) Creation of Additional Parcels. No creation of a parcel for a RV or mobile home park may result in a parcel or parcels of less than 160 acres, unless the parcels are reviewed as lots in a subdivision or as a valid exemption under [Title 76, Chapter 2, MCA](#).
- e) Submittal Requirements. In addition to the requirements of Chapter VI, the following submittal requirements unique to RV and mobile home parks shall apply:
 - i. Survey. The perimeter of the existing tract or tracts of record shall meet survey requirements of [Title 76, Chapter 3, Part 4, MCA](#). It is strongly encouraged, but not required, that the site plan components described below are also represented through formal survey.
 - ii. Site Plan. The delineation of the RV and mobile home spaces shall be shown on a site plan. Site plans shall conform to the requirements and content of plats except as follows:
 - A. Site plans shall be drawn in detail and to scale; site plans requiring more than one page will be numbered and include total number of pages.
 - B. The site plan shall include the following information:
 - Locations and dimensions of any service building, cabin, cooking shelter, or other structure that will be available for public use, including showers and restrooms;
 - Information required by DPHHS for the Layout Plan Review by [ARM 37.111.205\(1\)\(b\), \(2\)\(a\) through\(o\), and, and \(3\)](#);
 - Location and ownership of existing utilities and roads in their true and correct location and location of proposed streets, roads, electrical lines, natural gas, cable, phone and any other utilities proposed to serve the mobile home or RV spaces;
 - The dimensions and location of mobile home or RV pads, demonstrating compliance with the subdivision design standards outlined in Ch. III-C(3)(f) below; and
 - Delineation of RV park areas from mobile home park areas if both are proposed.
 - iii. A completed copy of the [Campground or Trailer Court Review Form](#) to be submitted to DPHHS.
 - iv. A rental or lease agreement specifying terms identified in these regulations such as requirements for RV parks and spaces that can only be realized once a renter/lessor occupies the site. Each item required by these regulations shall be identified as “required by terms of approval by **[INSERT NAME OF GOVERNING BODY]**.”
- f) Mobile Home Park Design Standards. Mobile home parks are subject to the design standards in Chapter VII with the following exceptions and additions:
 - i. There shall be no road or street easement required in mobile home parks. Roads shall be dedicated to the use of the mobile home park and guests and owned and maintained by the property owner.

- ii. One off-street parking space per five units shall be required in front of the manager's office and any communal facilities such as restrooms/shower/laundry facilities, recreational buildings, and retail facilities.
 - iii. All mobile home parks may be subject to lighting requirements for roads and public spaces. Lighting shall be required if the subdivision includes spaces with road frontage of less than 30 feet each or when the overall density is 20 spaces per acre or greater. Calculations shall be based on the net acreage of mobile home spaces, exclusive of roadways and public areas.
- g) Mobile Home Space Requirements.
- i. Mobile home spaces shall be arranged to permit the safe and practical placement and removal of mobile homes;
 - ii. The requirement for 50-foot minimum street frontage in Chapter VII does not apply to mobile home spaces;
 - iii. The boundary of each mobile home space shall be permanently delineated on the ground;
 - iv. An individual mobile home pad at least 14 feet wide and 70 feet long shall be provided in each mobile home space. These pads shall be constructed on at least six inches of gravel over a stabilized sub-base.
 - v. Setbacks.
 - A. Minimum side setbacks shall be 15 feet for principal buildings and 10 feet for accessory buildings.
 - B. Minimum rear setback shall be 10 feet.
 - C. Minimum front setback shall be 10 feet.
 - D. All mobile homes and appurtenances, including vehicle parking, shall be located a minimum 50 feet from the property line abutting a major arterial and a minimum 25 feet from all other public road rights-of-way.
 - E. All mobile homes and appurtenances, including vehicle parking, must be located a minimum 10 feet from a private road serving the space/unit.
 - vi. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed 2/3 the area of a space.
 - vii. Setbacks for mobile home spaces, mobile homes and appurtenances, including vehicle parking, shall be a minimum 15 feet from the exterior boundary of the surveyed mobile home park or adhere to the local zoning code requirements, whichever is more stringent.
 - viii. No mobile home or it's attached (e.g. awnings, carports) or detached structures (e.g. storage sheds) may be located within 20 feet of another mobile home or its attached structures.
 - ix. A minimum of two off-street parking spaces must be provided on or adjacent to each mobile home space. The driveway must be located to allow for convenient access to the mobile home and be a minimum of 10 feet wide.
 - x. Each mobile home shall be skirted within 60 days after it is moved onto a space within the mobile home park. Skirting shall consist of a fire-resistant material similar to that of which the mobile home exterior is constructed and shall be attached to the mobile home.
 - xi. Mobile home parks shall dedicate land to use as park or recreation area. The area to be dedicated shall be 11% of the total mobile home park area as surveyed for the site plan pursuant to Ch. III-C(3)(e) above. These areas shall remain in private ownership and shall not be dedicated to the public unless specifically accepted by the local

governing body. It shall be the responsibility of the mobile home park owner to maintain the park and recreation area. The governing body may accept cash-in-lieu of park dedication in circumstances where it is demonstrated park land is not necessary to serve the mobile home park.

- xii. Mobile home parks located adjacent to industrial, commercial, or lower-intensity residential land uses (e.g. single family residential) shall provide screening such as fences or natural growth along the property boundary line separating the park from these adjacent uses.
- xiii. Underground electrical service shall be installed to each mobile home space. If natural gas is provided, it shall also be installed underground. No propane tanks shall be allowed on mobile home spaces unless it can be demonstrated the tank complies with applicable local fire code, or if no local fire code exists, with state or national standards. To demonstrate compliance, the subdivider must include these requirements in the lease agreement.
- xiv. The governing body may require that a common area be provided for the storage or parking of boats, trailers, or other recreational vehicles. If such a common area is included, it shall be restricted for storage only and no structure, vehicle, boat or other container may be used for living inhabitation. This common area shall not be calculated or applied as part of the required parkland dedication.

h) RV Park Design Standards

i. Road and Public Parking Requirements

- A. There shall be no road easement dedications required in RV parks. Roads shall be dedicated to the use of the RV park guests, and owned and maintained by the property owner.
- B. The requirements for paving in Chapter VII may be waived with an approved variance request that demonstrates unpaved RV park roads will be maintained for dust suppression and a durable, drivable surface in wet or other inclement conditions shall be provided. In approving the variance, the governing body shall consider and make findings based on the variance criteria identified in Chapter VI.
- C. Off-street parking spaces are required in front of the manager's office and any communal facilities such as restrooms/shower/laundry facilities, recreational buildings, retail facilities, etc.

i) RV Space Standards

- i. RV spaces shall be arranged to permit the safe and practical placement and removal of RVs.
- ii. The requirement for 50-foot minimum street frontage in Chapter VII does not apply to mobile home spaces.
- iii. The prohibition on through or double front lots in Chapter VII does not apply to RV spaces as long as the access roads accommodate this through use of one-way streets or wider streets to accommodate turns.
- iv. The boundaries of each RV space shall be permanently delineated on the ground.
- v. An individual RV pad shall be provided in each RV space and sized to accommodate the proposed type of RV. The pads shall be constructed on at least six inches of gravel over a stabilized sub-base.
- vi. All RVs shall be located at least 50 feet from the property line abutting upon a major arterial and at least 25 feet from all other public street rights-of-way.

- vii. Setbacks for RV spaces shall be a minimum 15 feet from the exterior boundary of the surveyed RV park or adhere to the local zoning code requirements, whichever is more stringent.
- viii. No detached structures are allowed in a designated RV space.
- ix. No RV or its attached structures (e.g. awnings) may be located within 20 feet of another RV or its attached structures.
- x. One off-street parking space must be provided on or adjacent to each RV space. The driveway must be located to allow for convenient access to the RV and be a minimum of 10 feet wide.
- xi. RV parks shall dedicate land to use as a park or recreation area. The area to be dedicated shall be 11% of the total RV park area as surveyed for the site plan pursuant to Ch. III-C(3)(e) above. These areas shall remain in private ownership and shall not be dedicated to the public unless expressly accepted by the local governing body. It shall be the responsibility of the RV park owner to maintain the park and recreation area. The governing body may accept cash-in-lieu of park dedication in circumstances where it is demonstrated park land is not necessary to serve the RV park.
- xii. RV parks located adjacent to industrial, commercial, or lower-intensity residential land uses (such as single family residential development) shall provide screening in the form of fencing or natural landscaping along the property boundary line to mitigate visual impacts to adjacent properties as well as mitigate potential negative impacts from adjacent uses on RV park guests.
- xiii. The governing body may require that a common area be provided for the storage or parking of boats, trailers, or other recreational vehicles. If such a common area is included, it shall be restricted for storage only and no structure, vehicle, boat or other container may be used for living inhabitation. This common area shall not be calculated or applied as part of the required parkland dedication.

4. Phased Developments

- a) Overview. Phased developments are subdivisions that are developed in a series of phases over a period of up to 20 years. Phased developments include review and approval of an overall phased development preliminary plat, which shows the type and extent of the overall development, and individual phases, which are reviewed, approved, and developed sequentially.
- b) Review Process. The application and review processes for overall phased development preliminary plats and individual phases are described in Chapter IV, “Review Process.”
- c) Review Criteria. The review criteria for overall phased development preliminary plats and individual phases are described in Chapter V, “Review Criteria.”
- d) Design Standards. The design standards for water and wastewater treatment, roads, and other elements are described in Chapter VII, “Design Standards.”